

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FAISA M. ALI

Plaintiff,

23-cv-8867 (KMK) (AEK)

-against-

ORDER

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
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THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

Currently before the Court is the motion to remand filed by Defendant Commissioner of Social Security (the “Commissioner”). ECF No. 13. In the motion, the Commissioner seeks to have this matter remanded to the agency for further administrative proceedings because he has determined from a review of the record that the ALJ “relied on an incomplete record to evaluate Plaintiff’s allegations of disability.” ECF No. 13-1 at 3.

As an example, the Commissioner notes that “the ALJ found Plaintiff’s allegations regarding her ankle impairment were not entirely consistent with the record evidence in part because the record showed a lack of treatment for the ankle impairment.” *Id.* (citing the administrative record, ECF No. 8, at p. 22). The Commissioner then states that he “has determined that the treatment records regarding the ankle impairment are incomplete, *as the record contains references to treatment notes that are not in the record and that the ALJ did not attempt to obtain.*” *Id.* (emphasis added). The Court cannot assess this assertion, however, since the Commissioner provides no citation to the pages in the voluminous 1,742-page administrative record where the references to the missing treatment records can be found. Accordingly, the

Commissioner is hereby ordered to serve and file a letter by no later than **October 29, 2024**, providing the record citations that support this critical point in his motion for a remand.

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Separately, the Court notes that it had understood that the parties had discussed a potential settlement of this matter via an agreed-upon remand to the agency for further administrative proceedings. See ECF Nos. 11, 12. If Plaintiff is still interested in the proposed agreement to have her case remanded to the agency for further proceedings, it is not too late to enter into an agreement to resolve the case in that manner. The Court recommends that Plaintiff and counsel for the Commissioner communicate with each other again to consider this possibility. As set forth on the docket sheet in this case, the Commissioner's counsel, Ms. Gandhi, can be reached by telephone at 404-210-9532, or by email at avni.gandhi@ssa.gov.

The Clerk of Court is respectfully directed to mail a copy of this order to the *pro se* Plaintiff at her address of record on the docket.

Dated: October 22, 2024
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge